THE BLACK PANTHER
INTERCOMMUNAL NEWS SERVICE 25¢



VOL. XX NO 8 AUGUST, 1980 PUBLISHED BY THE BLACK PANTHER PARTY

The San Quentin 6 Case— 9 Years Later



GEORGE JACKSON



JOHNNY SPAIN



San Quentin Prison, August 21, 1971.

"The failure of the court to reverse my conviction is a flagrant miscarriage of justice"

—Johnny Spain

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Huey's Appeal Denied— Demands Rehearing

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Police, Klan Attacks Mount Nationwide

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People's Convention: "Democrats and Republicans Offer No Choice"

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B.P.P. President Files Petition For Rehearing

Court Denies Huey's Appeal of False Gun Conviction

(San Francisco, Calif.) - Huey P. Newton, protesting the California Court of Appeal's recent ruling upholding his 1978 conviction of being an ex-felon in possession of weapons, has filed a Petition for Rehearing with the state court.

In a 2-1 decision issued July 28, the court found that a ruling made in 1971 by an Alameda County Superior Court judge, which found Huey's earlier felony conviction was unconstitutional, did not "have the effect of wiping out the prior judgment of conviction."

The gun charges arose from the case of Preston Callins, whom Huey was falsely accused of beating up. He was acquitted of the assault charge but was convicted of being an ex-felon in possession of weapons and was sentenced to two and one-half years in state prison.

The Black Panther Party president immediately appealed his conviction, insisting that the 1971 court ruling meant that from that point on he was not an ex-felon and, therefore, entitled to possess weapons in order to protect himself and his family against numerous threats made against them. Charles Garry, Huey's attorney at the time of the 1971 ruling, advised Huey that he had a legal right to possess weapons in his home.



HUEY P. NEWTON and his wife GWEN at BPP leader's recent graduation from University of California where he received a Ph.D.

Huey's sentence in the Callins case was postponed pending the outcome of his appeal and he was freed from jail on $50,000 bail.

Oral arguments on the appeal were heard by the appeal court in January of this year. Tom Steel, Huey's attorney, told the court of the 1971 ruling. He also explained that in 1972, Huey went to Vacaville Medical Facility, where former BPP member David Hilliard was imprisoned at the time. At first, prison authorities refused to allow the visit on the grounds that Huey was an ex-felon. However, following the prison's review of the 1971 decision, Huey was allowed to visit Hilliard.

In 1972, Huey was charged in a case involving a gun. The district attorney's office did not raise the issue of Huey being an ex-felon—an indication that the 1971 ruling had been accepted. In 1978, a Santa Cruz County Municipal Court judge, citing the 1971 ruling, dismissed a gun charge against Huey.

Shortly before the Callins trial began in 1978, an Alameda County Superior Court judge, acting on a motion from Deputy District Attorney Thomas Orloff, overturned the 1971 ruling and declared Huey was an ex-felon.

At the appeal hearing in January, the state attorney general's office argued that the 1971 ruling only applied to the particular case the judge was trying. The state lawyer further claimed it was Huey's responsibility to determine if he were an ex-felon.

Comments by the judges at the hearing indicated they would overturn Huey's conviction. Justice James Scott said that the 1978 court ruling overturning the 1971 decision was improper and that the district attorney's office should have appealed the 1971 decision if it disagreed. Scott, however, wrote the majority opinion upholding Huey's conviction.

Presiding Justice Clinton White, who is Black, dissented from the majority opinion, arguing that Huey's conviction was illegal and should be overturned. White's opinion said, in part:

"Under California law, a constitutionally invalid conviction will not support a [possession of a firearm by a felon] offense. . . . An accused cannot be forced to suffer anew from the earlier deprivation of his Sixth Amendment right. . . . I would reverse the judgment."

In upholding Huey's conviction, the appeal court ordered the case back to Alameda County Superior Court for resentencing. The court ruled that Huey is eligible for probation, which he maintained at the time he was sentenced in 1978.

In arguing for a rehearing of the case, Huey's Petition for Rehearing stated:

"It is a fundamental and established principle of law that every true crime requires mental culpability. . . . Imprisonment for an act performed without a guilty mind by a blameless individual strikes deep at our system of justice. . . .

"Penal Code 12021 has two basic elements: possession of a concealable firearm and status as a 'person who has been convicted of a felony. . . .'

"Under 12021 . . . mere possession of the weapon is not sufficient to convict; the defendant must have knowledge of the possession. . . .

"Appellant attempted in the trial court to introduce into evidence the 1971 deci-

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People's Perspective

F.B.I. Stalls in B.P.P. Lawsuit

(Washington, D.C.) - Attorneys representing the Black Panther Party in its $100 million lawsuit against the FBI and other federal agencies filed a motion in late July to speed up litigation of the case, which is now nearly four years old.

Defendants in the suit, who directed various COINTELPRO activities against the BPP, are trying to delay the hearing of the case by the U.S. Court of Appeal here by seeking repeated extensions of the deadline for filing briefs before the court.

B.P.P. Joins Abortion Suit

(Washington, D.C.) - The Black Panther Party is among some 300 groups listed in a brief filed with the U.S. Supreme Court in late July seeking a reversal of the high court's recent ruling banning Medicaid-funded abortions for poor women. The suit was filed by the New York-based Center for Constitutional Rights.

Black Leader Seeks Council Seat in Ill.

(Cairo, Ill.) - Black civil rights activist Rev. Charles Koen has demanded an investigation of death threats he received in telephone calls to his home. Koen, head of the United Front, a local civil rights group, said threats were made to kill him unless he ends his candidacy for the city council in a court-ordered August 26 primary election. For the first time in this century, Blacks are expected to be elected to the Cairo City Council. A federal court recently ordered district elections after ruling that the city's at-large elections discriminated against Blacks.

Was Marx Black?

(New York, N.Y.) - Was Marx Black? According to Professor Herbert Vilakazi he was. Vilakazi, a Black South African who teaches sociology at Essex County Community College in Newark, N.J., presents his case in the June issue of **Monthly Review**, in an article entitled, "Was Karl Marx a Black Man?" Vilakazi says, "The evidence I've seen over the years regarding Marx's looks is enough to convince me that, *according to the criteria of racial classification used by the common person in the United States of America*, Karl Marx would be classified as Black" (emphasis in the original). The idea that Marx was Black is not original. It was stated many years ago by J. A. Rogers, a prominent Black history scholar.

Black Jobless Rate 24 Per Cent

(New York, N.Y.) - The actual unemployment rate in 1979 among Black heads of household was 24 per cent—three times higher than the official rate computed by the government—the National Urban League said in July.

The Black civil rights group said, "Because of the onset of a new recession during the first half of 1980, the actual levels of joblessness among Black household heads today are even higher than those revealed" in the league survey.

Dennis Banks Faces Trial in Oregon

(Portland, Ore.) - Supporters of the American Indian Movement defendants here recently announced plans to fight attempts to extradite Dennis Banks from Oregon to South Dakota when he returns to Oregon to face trial. Banks, along with three other defendants, KaMook Banks, Russ Redner, and Kenneth Loud Hawk, will stand trial on frame-up charges of illegal possession of firearms and explosives. The incident dates back to 1975, when the Oregon state police, on the basis of alleged information given by FBI informers, stopped two vehicles in eastern Oregon. Redner, Loud Hawk, KaMook Banks, and Anna Mae Aquash were arrested at the scene. The police claim that Dennis Banks and Leonard Peltier had somehow escaped in the wide open desert. Three days after the arrests, police claim, a search of one of the cars turned up seven cases of dynamite. The trial has been scheduled for September 3.

Officials in South Dakota have indicated that they will press for extradition once Banks returns to Oregon for trial. Banks was convicted in South Dakota in 1973 on a trumped-up charge of "riot while armed."

Klan Endorses Reagan

(New Orleans, La.) - The Invisible Empire, Knights of the Ku Klux Klan, now regarded as the largest and most militant Klan group in the country, has endorsed Ronald Reagan for President and said in its newspaper that the Republican platform "reads as if it were written by a Klansmen." The endorsement was made in an editorial in the Klan group's newspaper, **The Klansmen**, written by Imperial Wizard Bill Wilkinson.

D.C. Seeks Statehood

(Washington, D.C.) - The District of Columbia would become the 51st state under a proposal that will appear on the election ballot in the district this November. The 61-square-mile district, which has a predominately Black population of 568,300, has no voice in the Senate and no vote in the House except on District matters.

Johnny Spain's Appeal Denied

The San Quentin 6 Case - 9 Years Later

"During the extended period this Court took to resolve this case, [I] comforted [myself] with the belief that [I] would at least receive the benefit of a careful, deliberate decision. What [I have] received instead is a disgrace.

"The Court has seriously misread the record of this trial; has failed even to acknowledge most of [my] arguments; has twisted beyond recognition the presumption of prejudice that attaches in cases of this kind; and has ignored the major cases that [I] cited.

"This petition...affords the majority a rare opportunity to correct what now stands as a serious miscarriage of justice...."

(San Francisco, Calif.) - Protesting the California Court of Appeal's failure to rule on clear evidence of illegal jury and judicial conduct during the San Quentine 6 trial, Johnny Larry Spain has filed a Petition for Rehearing of his appeal (excerpts quoted above).

On July 24, following a delay of more than seven months, the court issued a 2-1 decision upholding Johnny's conviction in the 18-month-long San Quentin 6 case, held in 1975-76. Johnny was convicted of killing two guards and conspiracy to escape arising from the assassination of George Jackson at San Quentin Prison on August 21, 1971. Along with George, who was a Black Panther Party leader, two other inmates and two other guards were killed.

Prison officials claimed George was attempting to escape from San Quentin. Trial testimony of Louis Tackwood, an ex-undercover informant for the Los Angeles Police Department, revealed that George was murdered as part of a nationwide conspiracy by law enforcement agencies to destroy the Party and eliminate its leadership.

Johnny, 31, who has been a Party member for 10 years, was the only one of the San Quentin 6 defendants convicted of murder. Following his conviction and sentencing to two life prison terms, his attorney at the time, Charles Garry, learned that juror Patricia Fagan was a close friend of a woman allegedly murdered in 1968 by Elmer "Geronimo" Pratt, a former member of the BPP. After hearing Tackwood mention Pratt's name, Fagan told Judge Henry Broderick that she believed Pratt had killed her friend. Out of court, Fagan's mother told her Pratt was responsible for the murder. Fagan told several jurors of her belief.

Broderick violated both federal and state laws by failing to inform defense attorneys of his conversations with Fagan, thus preventing any examination to determine whether she should have been replaced by an alternate juror. In May, 1978, Johnny appealed his conviction, charging that his constitutional right to trial by a fair and impartial jury had been violated.

In its July ruling, the Court of Appeal conceded that Broderick should have informed defense attorneys of Fagan's information about Pratt, but claimed that neither she nor the jury were biased against Johnny. The majority opinion submitted by Justices Lewis Feinberg and James Scott said, in part:

"As we see it, the error was committed by the trial court in denying appellants and their counsel the right to be present at the conversations between Fagan and the trial judge in order to ascertain whether, as a result of the Pratt murder of Fagan's friend, Fagan would be prejudiced or biased against appellants."

[Hugo Pinell and David Johnson, two of Johnny's co-defendants who were convicted of assault, also appealed their convictions. Their appeals were denied.]

"In light of the nature of the error, the marginal relevance of Pratt to the issues of the case, Fagan's disclaimers as to any effect that Pratt's murder of her friend might have on her consideration of the case, and the jury verdicts ultimately reached [San Quentin 6 defendants Luis Talamentez, Willie Tate and the late Fleeta Drumgo were found innocent of all charges against them], we are convinced beyond a reasonable doubt that the jury as a whole, and Fagan, specifically, were not biased or prejudiced....

"In our view, appellants received a fair trial....There has been no miscarriage of justice," the 32-page majority opinion concluded.

Presiding Justice Clinton White, who is Black, wrote in his 15-page dissenting opinion:

"The majority conclude that appellants received a fair trial. I am compelled to disagree....

"For me, the disturbing reality is that we are herein concerned with the constitutional implications and consequences of an instance of judicial omission to enforce legislative dictates. We apparently agree, indeed we must agree, that the immediate consequences to appellants are that they were effectively denied their right to be present and their right to the effective assistance of counsel in exercising their right to confront and examine the juror Fagan during the court's determination that good cause did not exist for Fagan's discharge as a juror....

"The Fourteenth Amendment to the United States Constitution provides, 'nor shall any State deprive any person of life, liberty, or property, without due process of law;....' On this record, my conviction is that appellants were denied the procedural safeguards of due process of law requiring automatic reversal of their convictions and a new trial....



BPP member JOHNNY SPAIN.

"Whatever else it is, a modern jury trial is in reality two trials, one in 'front' of the jury and one without its presence. Undeniably, both are 'critical' stages of the proceedings. The majority reason that '[o]bviously,' it would have been much better if appellants and their counsel had had the opportunity to examine [Fagan] at the time when the Pratt matter was uppermost in her mind.

"Not only would it have been 'better,' it would have been fairer. It was obviously not fair to deprive appellants and their counsel their constitutional and statutory rights to notice juror Fagan's possible disqualification and their right to at least make a reviewable record to show cause why she should have been disqualified. (The probabilities are that she would have been disqualified—certainly on the second day because she did not 'forget' as admonished but discussed one aspect of the case with her mother and in so doing received evidence not developed at trial.)....

"Implicitly the majority's view is that the 'protection' afforded by the provisions of the Penal Code need not be strictly adhered to; they find what happened here 'fair'; I do not. Fairness in our adversary system requires that both the prosecution and the defendant get their *full* day in court.

"Frankly, it is not procedural fairness for any party to be advocating his or her case to the triers of the facts on the assumption that they are fair and impartial when, in fact, the trial judge is aware that one of their number's impartiality is at least suspect.

"A 'fair' hearing was required to remove that cloud of suspicion if the constitutional right to an impartial jury was to remain secure for all parties to the lawsuit. Whatever procedure or 'process government grants is, by definition, the process that is due.'

"The role and duty of the court is to protect the rights of the accused. Certainly the accused is entitled to the assistance of counsel. There is no adequate substitute for the presene of the defendants and their counsel at every stage of a trial. As this case clearly illustrates, cross-examination under oath of juror Fagan would most assuredly have probed her state of mind and disposition to depths of which even she was not fully aware. (I would expect that she would have been excused by stipulation.)....

"Appellants were not entitled to 12 jurors who associated the Black Panthers with breakfast programs, but 'due process' required that they be afforded full opportunity to seat 12 jurors who did not associate, from either personal experience or that of friends, Black Panthers with acts and crimes of violence. They were effectively denied this *opportunity*. The trial court's failure to afford this opportunity in a....hearing violated even minimal standards of due process.

"Finally, I would not conclude that the prosecution has proved beyond a reasonable doubt that Fagan was not biased or prejudiced for several reasons. First, such a fact essentially is incapable of proof; actually it requires 'sheer speculation' which, of course, is not permissible under the [the law].

"Second, the fact Spain and others were acquitted on several charges certainly indicates the presumption of innocence was not overcome by the entire evidence. But that does not mean that the fact Fagan believed Pratt, a Black Panther leader, murdered her friend played no part in her decision to convict those who were either Black Panthers or who were alleged to be associating criminally with Black Panthers. Perhaps Fagan actually knew whether or not she was influenced by this knowledge, but as I understand the law, after her verdict, we are not permitted to consider her opinion as to her state of mind.

"Finally, to determine the precise degree of prejudice sustained by appellants by the trial court's 'federal constitutional error' is at once difficult and unnecessary. I would reverse these judgements."

In his Petition for a Rehearing, filed by the State Public Defender's Office, Johnny argued:

"As Justice Feinberg himself recognized at the oral argument, the 'tangential' or 'marginal' nature of Tackwood's testimony or Pratt's involvement is a red herring....

"The Panthers were, by this Court's own reckoning, central...The voir dire [pretrial questioning of prospective jurors] ran on at unprecedented length and involved the goals, principles and functions of the Black Panther Party which were referred to over and over again. The chairperson of the Black Panther Party testified along with other prominent members of the Party. In short, the Panthers, their general philosophy...permeated the entire case...

"The prominence of Tackwood's testimony or of Pratt's role is completely irrelevant to this inquiry. It is the fact of Pratt's existence and membership in the Black Panther Party rather than the extent of his role in the case which is crucial....

"While the opinion *acknowledges* this argument, nowhere does it *address* the contention. The majority's failure to dispose in a forthright manner of arguments it knows full well are at the heart of the case is difficult to understand....

"Among the most disturbing things about this case is the fact that the Court would attempt to dispose of it in an unpublished opinion. The notoriety of the case alone, one would have thought, would have impelled the Court to provide a public analysis of its position. In addition, the case raises obviously important questions of state and federal constitutional law.

"On the other hand one can well see why the authors of the present opinion would not want it published. For this opinion is the most flagrant example....of a decision in which careless judicial craftsmanship has created an unjust result. The Court's slipshod analysis, its misreading of the record and its failure to deal with controlling authority have simply blinded it to the necessity for reversal.

"[I] have shown...how this opinion simply cannot withstand analysis. One way to deal with that sad fact is to continue to sweep [my] contentions under the rug by denying this petition. [I] urge the Court not to do so."

If the Petition for Rehearing is denied, Johnny will appeal to the California Supreme Court.

(Anyone wishing to write Johnny Spain may address correspondence to P.O. Box 2000, Vacaville, Ca. 95688).□

THE BLACK PANTHER
INTERCOMMUNAL NEWS SERVICE
[illegible]
PUBLISHED MONTHLY BY THE BLACK PANTHER PARTY, 7822 MacARTHUR BLVD., OAKLAND, CALIFORNIA [illegible] TELEPHONE [illegible]
YEARLY DOMESTIC SUBSCRIPTION RATES: [illegible]
SECOND CLASS POSTAGE PAID AT OAKLAND, CALIFORNIA

Miami: "The Higher-Ups Are Causing The Problems"

"...I'll tell you what the problem is. The judges and the higher ups. The higher ups are causing the problems, not the working people."

Marjorie Vogel speaks to the heart of the crisis facing Miami, Florida. To investigate this crisis, staff of Keep Strong *magazine traveled from their headquarters in Chicago to Miami where they talked to Vogel and other poor residents of the city. The following article is excerpted from the July issue of* Keep Strong.

(Miami, Fla.) A giant wall cuts the city in half. For 20 years it has served as the corner stone of the city's policy. The city's policy has been build for the rich; contain and starve out the poor. The wall is an expressway. A 20-minute ride down it from North Miami Beach to 41st Street explains the reason for the wall. To the east, there is money, big money, always new money. South American money, oil money, drug money, Chase Manhattan, BankAmerica and Citicorp money. They're buying land, building office buildings and condominiums and shopping centers and playgrounds for the "technocrats" who are drawn here by the money.

On the west, there are the people. White and Black Americans, White and Black Cubans, Haitians, Puerto Ricans and all others. These are the people who do the work or did the work when they got a chance. The two dollar-an hour busboys, the piece rate seamstresses, the 24-hour security guards and all others. This is where the bulk of Dade County's (Metropolitan Miami and Miami Beach regional government's) 60,000 substandard housing units are. This is where 20 per cent unemployment would be 20 per cent better than it is today. This is where thousands of young Blacks took a stand in the middle of May.

A few blocks off the expressway a gray-haired woman stands in the door of her tiny apartment and winces as she stares at the hot Miami sun beating down on NW 100th Street. She points sadly to her husband standing next to her and explains:

"This is a man who is 89 years old. He doesn't even get $200 a month to live on. The last week of every month we just don't eat very much. We've lived here six years this time. We moved down from New York. If I didn't get sick I'd still be up there. We only drive the car once a week to and from church. We can't go anywhere else because we can't afford the gas.

"God knows he's lucky he's a veteran (WWI). The V.A. pays for all his medicine. Imagine if he wasn't a veteran. With his check we have to buy the food and pay a few expenses. Mine goes for the rent. We tried to get coupons (food stamps). You have to wait about four hours. You feel like you don't want to go back there. They'd just tell me no anyway."

R. T. Sherman and his wife must survive on less than $400 a month. The rent of $175 eats 45 per cent of their income. "When they were rioting, we stayed in the house and locked the door...I don't think it's fair. The way many of these people can't get help. They're helping all these Cubans. They should take care of our people first."



Tire plant burned down during the May rebellion of Miami's Black community.

The Shermans, a White couple, live on the northern fringes of Liberty City. Liberty City is the largest Black ghetto in Miami, not the only, just the largest.

The corner of NW 62nd Street and 17th Avenue is a wide and busy intersection in the middle of Liberty City. For 10 blocks in four directions, the streets are cluttered with the burned remains of hundreds of businesses. All that is left of the Norton Tire Plant on the corner is twisted metal amidst piles of concrete rubble. Liberty City exploded on May 18, when a six-man jury in Tampa, Florida, acquitted four White ex-Miami policemen in the beating death of Arthur McDuffie, a Black man.

Marjorie Vogel lives a few blocks from the Shermans. She's been there almost 30 years and she doesn't like what's going on in Miami. "I felt it was a great injustice in the McDuffie case. And I still feel it was a great injustice.

"I wouldn't mind paying an extra penny tax (referring to Floria Governor Graham's proposal to raise the sales tax one cent to raise $300 million to 'repair damage from the riots and rebuild the ghetto') to help 100 senior citizens.) I'd gladly give up a penny. That's my true opinion. We've all worked pretty hard. This has been a quiet neighborhood. We are a mixed neighborhood. There are Black families down the street and across the street. I have no objection to race. I'll tell you what the problem is. The judges and the higher ups. The higher ups are causing the problems, not the working people."



Shopping complex built to attract big business to Miami.

There is something about the system down here that Marjorie Vogel doesn't like. She thinks she has her finger on it. She sees the young Blacks who cannot get jobs, protest in anger. Mrs. Vogel knows she's been pushed aside, along with three-quarter of a million other Miamians.

The cover of *Miami* magazine announces the city as the "Global Gateway." Inside five businessmen sit around a table and chat about the future

Roy Kenzie, executive director of Miami Downtown Development Authority: "Downtown has taken off in the last three to five years and has been the beneficiary of tremendous stimulation and an increase in finance, trade and tourism, because downtown feeds on all of those things, and it depends on the airport, it depends on banking and finance. And, in a two-year period, thanks to deregulation, look at the increase in international banks, and the growth of local banks..."

Alexander McWolfe, chief operating officer, Southeast Banking Corporation: "We are attracting to Miami a large body of what I would call technocrats. These are highly skilled people. They are coming to the account-

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GREENSBORO, N.C.

Greensboro: "This Trial Is A Sham"

(Greensboro, N.C.) - "This trial is a sham and a farce. The U.S. government is trying to enforce fascism," shouted Marty Nathan, the widow of one of five protesters shot to death at an anti-Klan rally last November 3, during the murder trial here of six Ku Klux Klansmen and Nazis.

Nathan's description of the Greensboro trial would also fit the whitewashed legal proceedings which sparked the recent Black uprisings in Chattanooga, Tennessee and Orlando, Florida.

Klan violence and police repression is on the rise across the country—and is apparently sanctioned and inspired by the U.S. government.

The White policemen responsible for the murder of Arthur McDuffie have yet to be brought to justice. Neither have the Klansmen in Chattanooga who shot and killed four Black women in cold blood.

Furthermore, a federal agent who infiltrated the American Nazi Party may have played a key role in the shooting deaths of five members of the Communist Workers Party in Greensboro, according to a local newspaper.

The *Greensboro Record* discovered that Bernard Butkovich, an agent for the Alcohol, Tobacco and Firearms Bureau of the U.S. Treasury Department, played an active and provocative role in planning the Nazi activity which led to the murders of the CWP members.□



ALABAMA



ORLANDO



CHATTANOOGA

McDuffie Case Just One Example

Whitewashed Probes of Police Murders Continue Nationwide



(Oakland, Calif.) - The federal indictment of a White policeman involved in the murder of Arthur McDuffie is another token gesture to appease the anger of the Black community in Miami and Black people nationwide.

There are incidents similar to the McDuffie case across the country—in Oakland, Los Angeles, Chicago, New York, and Atlanta. And from all indications, whitewashed investigations and half-hearted prosecutions of the White policemen involved are in progress.

A typical example is the case of Charles Briscoe, a 37-year-old Black man who was shot and killed by Oakland police officer Robert Fredericks in an unprovoked attack on September 5, 1979. Angry community protests were sparked by the police murder of Briscoe and eight other Blacks in a 13-month period in Oakland.

In July, however, following a grand jury hearing of the Briscoe case, U.S. Attorney William Hunter refused to bring federal charges against Fredericks. None of the Oakland police involved in the other cases have been successfully prosecuted.

In a case which has received little national media attention, a federal jury in Atlanta recently made a token award of $10 in damages to the family of a 14-year-old youth who was shot to death by a Morrow, Georgia, policeman in 1976.

Dale Bragg was killed by Officer William Howard after he allegedly responded to a burglary call at a vacant house. Howard testified that he "accidently" shot Bragg as the youth and two companions ran out of the house.

On January 27, 1979, Cornelius Tatum, a Los Angeles service station attendant, was left paralyzed from the waist down after he was hit by three of 11 shots fired at him by three policemen.

Black community pressure forced the district attorney's office to bring charges of assault with a deadly weapon against officers Harrell Compton, Norman Nelson and Cesario Reyes. Their trial began in late July.

On July 6, Richard Ramey, 51, while handcuffed, was beaten to death by three Chicago police. The elderly man was allegedly arrested for smoking on a rapid transit train.

The officers of the mass transit unit, despite being charged with murder by a Cook County grand jury, remain free pending arraignment. No bond was required.

On February 21, 1979, a drunk New York City policeman fatally shot two unarmed Hispanic men while off duty in a crowded Bronx tavern.

The Bronx district attorney's office acknowledges that the shootings were unprovoked and probably motivated by racial bias on the part of officer Kevin Durkin, who is White. Durkin's trial on charges of murder is now in its third month, already one of the longest criminal proceedings in recent years in the city.

Defense lawyers have offered the jury two grounds for acquittal — that Durkin was justified in shooting because he feared his own life was threatened or that he was not responsible because he was mentally disturbed.

Durkin testified that he believed the victims, whom he had just met, were members of the FALN, a Puerto Rican nationalist group, and wanted to kill him.

The defense strategy is similar to one used in the 1977 trial of officer Robert Torsney, who was acquitted by reason of insanity in the unprovoked killing of a 15-year-old Black youth in Brooklyn. One of Durkin's principal witnesses, Dr. Daniel W. Schwartz, a psychiatrist, was a key "expert" witness for Torsney.

No evidence has been produced that the victims — Manuel Martinez, 40, and his nephew Domingo Morales Jr., 25 — were involved with the FALN.

A prosecution witness testified that moments before the shooting, she heard Durkin say to Martinez, referring to Morales: "He's not leaving here alive. I'll blow your head off, too."□

Rent Control Measure On Oakland Ballot





(Oakland, Calif.) - ADELLA JOHNSON (bottom, right) receives $556 a month as an Aid to Families With Dependent Children (AFDC) recipient. Her rent is $456 per month for a one-bedroom apartment. Ms. Johnson has four children.

Ms. Johnson's situation is typical of the plight of the mostly Black tenants at St. Joseph's Motel and Apartments in East Oakland. In July, tenants at St. Joseph's, including Ms. Johnson and LEONA WASHINGTON (bottom, left), initiated a rent strike to protest their exorbitant rent, illegal evictions and the refusal of the owner to make needed repairs.

The residents at St. Joseph's are mostly welfare mothers. They pay rent on a weekly basis. The AFDC recipients are trapped at St. Joseph's because they do not have enough money to pay the first and last month's rent and other fees needed to move elsewhere.

Tenants at St. Joseph's helped collect some of the 24,000 signatures that were recently gathered to qualify a local rent control initiative for the November ballot.

The proposal would create an elected rent control board that would set fair base rents and adjust rent increases in accordance with the Consumer Price Index. The board would also settle complaints of unfair evictions.

The rent control campaign is being lead by Oakland Citizens for Decent and Affordable Housing and the Oakland Tenants' Union. Black community activist JAMES VANN (top photo) is the co-chairperson of OCDAH.□

EDITORIAL

A Look At History

August is an historical month for the Black Panther Party. On August 5, 1970, Huey P. Newton was released from prison after serving nearly three years on the false charge of killing an Oakland policeman.

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Two days later, on August 7, 1970, Jonathan Jackson, 17-year-old brother of George Jackson, was assassinated at Marin County Courthouse while attempting to free three Black prisoners and join in the work of his brother exposing the violence and inhumanity of the American prison system.

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On August 21, 1971, George Jackson, Field Marshal of the Black Panther Party and acknowledged leader of the prison movement in this country, was assassinated at San Quentin Prison during a police-planned set-up.

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On August 12, 1976, Johnny Spain, a Black Panther Party member and close friend of George, was sentenced to two life prison terms following his false convictions in the San Quentin 6 case.

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Today, 10 years after Jonathan's murder and nine years after that of George, the inhumane treatment of prisoners, which George and Jonathan sacrificed their lives to fight and expose, continues. American prisons are fuller than ever, with the overwhelming majority of those incarcerated—and on death row—Black and poor people.

The system of government under which we live, by denying justice to poor people, perpetuates the penal system. If there were full employment or a guaranteed full income, free health care, quality education and justice in the courts for all Americans, the prison population would be greatly reduced, perhaps almost completely.

□□□

Since his release from prison 10 years ago, Huey has undergone five trials, has been repeatedly harassed, threatened and arrested by police, and finally was forced to flee this country for three years to save his life. The California Court of Appeal's refusal to overturn his false gun conviction means that Huey now faces the possibility of another prison term.

□□□

Nine years after the murder of George Jackson, Johnny Spain is still in prison for a crime he did not commit. The Court of Appeal's decision that his conviction—as well as that of Huey's—was legal shows clearly that there is still no justice in the courts of this country for those who actively organize against oppression.□

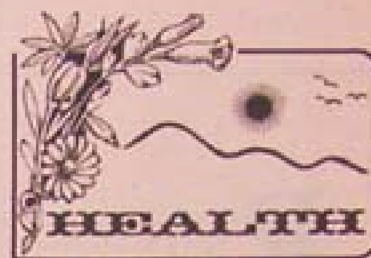


Fallen Comrades



GEORGE JACKSON
Assassinated: August 21, 1971, San Quentin Prison
—"If I leave here alive, I'll leave nothing behind. They'll never count me among the broken men."

JONATHAN JACKSON
Assassinated: August 7, 1970, Marin County Courthouse
—"We are taking over now. We are the revolutionaries."



Blacks and Cancer

More and more Black Americans are being stricken with cancer. In the last 25 years, the cancer rate among Blacks has increased 25 per cent compared with five per cent among Whites. Blacks have a higher incidence of almost every major form of cancer than Whites. The only exception is breast cancer.

Since 1970, the cancer death rate for Black males has increased 46 per cent compared to nine per cent for White males. Statistics from a 1973-77 National Cancer Institute study show that the overall incidence of cancer in men, in cases per year per 100,000 persons, was 436 for Blacks, 361 for Whites, and 250 for Chinese, Japanese and Filipinos.

Medical studies indicate that environmental factors, not racial origin, are the major cause of the higher rate of cancer among Blacks, according to Dr. LaSalle Leffall Jr., immediate past president of the American Cancer Society. Leffall, who is chairman of the department of surgery at Howard University Medical School, says:

"Most of us now believe that only five to eight per cent of cancer is related to the workplace. Most cancer is related to the environment."

Evidence shows that the incidence of cancer and death from cancer increases as studies shift from rural to urban areas. Dr. Jack E. White Sr., director of cancer research at the Howard Medical Center, says that since 1915—when Blacks began migrating in large numbers from the rural areas of the South to northern cities—the incidence of cancer and cancer-related deaths has sharply increased. In 1915, the cancer rate among Blacks was lower than among Whites.

In the mid-1950's rates were equal among Blacks and Whites, but by the mid-'70's, the rates for Black men rose above rates for White males.

The National Cancer Institute study found that cancer rates among ethnic groups frequently change when they immigrate to a new country with different eating and work habits. Cancer rates for Chinese and Japanese people are lower than for most of the rest of the world in their native countries, but Chinese and Japanese immigrants to America are experiencing increased cancer rates.

Lung cancer accounts for one third of all cancer deaths, and cigarettes are the greatest cause of it.

Studies show that the way to avoid cancer of the stomach, prostate and pancreas is to reduce saturated fat intake in the diet.

Doctors point out that preventive health education is the major solution to the growing cancer rate among Black Americans. Most Blacks do not see a physician unless it is an emergency. Going to a doctor costs money, which is another reason why Blacks do not frequent doctors. When they finally seek medical help, it may be too late.□

Sioux Indians Demand Return of Homeland

Uranium Mining Companies Plunder Black Hills













People's Convention:

"The Democrats and the Republicans Offer No Choice"

A.N.C. President Oliver Tambo

"We Will Sacrifice to Free S. Africa"

The following interview with Oliver Tambo, president of the South African liberation movement African National Congress (ANC), was conducted in Luanda, Angola, recently by the Guardian.

Question: Do you think the ANC's armed actions have fuelled the resistance?

Tambo: Most decidedly. Our armed actions have had a profound impact on the course of events in South Africa and in particular have given our people the confidence that victory for them is as inevitable, as certain as it was for the people of Mozambique, Angola and Zimbabwe who were compelled by the intransigence of their colonial regimes to resort to armed struggle.

The need for this form of struggle in our country has been felt for decades. It is not something imposed on our people— it emanates from them, it meets their highest aspirations in terms of how to remove a hated authority that rules, oppresses, exploits and persecutes them. With our armed actions people have been encouraged—they are their actions. But this represents only a beginning. The armed actions will yet involve and draw in the masses of the people themselves.

The ANC has been proceeding on the basis that our struggle must consist of a combination of political and military actions. The two are complementary. The armed actions are inspired by the political struggles waged at the mass level by students and workers, resistance to (housing) removals (to the bantustans), opposition to increased rentals and high bus fares.

Conversely, these mass actions draw inspiration and strength from the armed actions of Umkhonto We Sizwe (Spear of the Nation, the ANC armed wing).

This combination is responsible for the tremendous current upsurge we are witnessing today. But it is still comparatively weak. The entire people have yet to rise against the system, resisting at every point, at every level, in every part of the country and fighting injustice wherever they confront it.

Q: Have you been surprised at the growing unity shown in recent actions?

Tambo: We hoped it could have come sooner, we have been working for it, we are working for it. There is plenty of room for more solidarity and unity in action. There is a trend, a noticeable trend in that direction. But it leaves much to be desired.

Nevertheless, industrial actions are going on at any given time throughout the country, actions which have strong elements of solidarity; youth and students are constantly on the offensive and their actions complement action by the workers; White students are supporting both the school boycotts and the workers' strikes, and for the first time the school boycotts created a situation which saw bishops and priests arrested in scores.

All this manifests a trend toward unity in action which the ANC has been cajoling for and encourages. We have insisted that all our people join in the resistance to all forces of apartheid wherever they are in every center. People in all walks of life, every class, the young and the old.

It is significant that the youth in particular are all over, in the churches, among the workers, in the national liberation movement, the political organizations and as far as the ANC is concerned they serve at all levels—in all sectors of our activity. They fill positions of command and authority in our army. They sit in the planning units, they are at the battlefront, they are our administrators, they engage in international solidarity work and in this way they have given tremendous youthfulness to the ANC. That situation bodes well for the future, and I'm not talking about a remote future.



ANC President OLIVER TAMBO.

Q: Moving on to the ANC attacks against the strategic oil installations at the beginning of June—what can you tell us of how it has been possible for Umkhonto to carry out such a very sophisticated and highly planned operation in spite of tight security measures by the regime around these points?

Tambo: None of us believe the regime can ever solve the problem of security. After all, our activists are in South Africa, they have had to learn how to live with the repressive and highly sophisticated machinery which has been developed by the regime at enormous cost over the past 20 years.

Umkhonto We Sizwe has developed sophisticated techniques. In part by trial and error and by dint of study and experimentation, we have learned from our mistakes. We are therefore not really surprised at the success of the attack on the Sasol complex. In fact, it was not completely successful—we could have done better.

Q: The regime immediately tried to pin blame on neighboring countries.

Tambo: They did worse. Characteristically unable to reconcile themselves to the fact that what any human being can do an African can, they have sought to explain the sophistication of the operation in terms of some superior body—presumably implying even superior to the Department of National Security and BOSS (the South African secret service)—namely the KGB, and they have cited Mozambique and Zambia as the centers where the overthrow of the South African regime is being planned.

This nonsensical fairy tale is a transparent screen for designs against the independent states of southern Africa.

Q: In other words, your struggle is not relying on cross-border raids?

Tambo: We have had no cross-border raids. We could have had them if we wanted. The thousands of armed troops lined up along the borders of our country must be finding life pretty dull out there. In any case, they can do nothing to prevent movement in and out of South Africa and while they watch the borders they will do nothing to stop the steaming volcano within the borders of South Africa.

For Umkhonto We Sizwe is in the country, as part of the people. We have our weapons there inside, some were brought in from outside the country, others we have collected from within. Some are of local make, others have been imported into the country by the South African government itself or by private companies or individuals.

But the weapons that are always reported as captured or found are conveniently labelled "communist."

Q: Could you place the June 26, 25th anniversary of the adoption of the Freedom Charter in perspective?

Tambo: Today there is a debate in South Africa among the ruling class, centered on how to get rid of apartheid South Africa. At the moment the regime is tampering with the present constitution of the country, a constitution which was drawn up against the will of the majority and forced on us in 1910 and again in 1961. Yet with nearly 70 years of our opposition to the structure of the society under which we suffer, the Botha regime is proceeding to introduce amendments only to this constitution. Any constitution must start with us as full participants.

If we reject and repudiate the right of this regime to govern us, it is because the people of South Africa, Black and White, 25 years ago agreed on and adopted the Freedom Charter. That is the document now to be amended. That is the document which lays the basis for the constitution of a future South Africa. That is the document which points the way out of the situation in which a White minority is facing growing resistance by the majority of the people of South Africa.

Therefore the Freedom Charter today in South Africa has moved into the center of the stage. Its relevance to the situation has become crucial.

Q: The Release Mandela campaign has been launched and received support from a wide spectrum of people in South Africa. What do you feel the chances are of his release.

Tambo: Well, if one proceeds from the premise that in spite of all the talk about change in South Africa, there is in fact no change, then it seems doubtful whether the regime could heed this



most powerful demand by the people of South Africa of all races, and which is supported by the international community. But we cannot realistically speculate about how the South African regime will respond. We can say we expect it to respect public opinion.

In any case, there is no longer any justification for keeping leaders of the people of South Africa in perpetual imprisonment when so much change is taking place in the world and in southern Africa in fulfillment of the demands which they made and which led precisely to their imprisonment. In other words, the struggle for liberation is advancing outside South Africa and within it and their detention is no deterrent.

There are two reasons therefore why they should release Nelson Mandela. One is that the strategic position inside the country has changed—very radically I would say. To deal with this changed situation requires the collective brain of the country. That brain is deficient without the leaders of the Blacks. Secondly, elementary justice makes it a crime that these leaders and opponents of the apartheid system should remain imprisoned.

Q: What sort of support would you like to see from the frontline states, particularly now Zimbabwe is independent?

Tambo: The frontline states have always helped the struggle in South Africa, as they have done elsewhere, to the extent that they were able to, and we have never expected them to do more. There are obvious limitations to their capacity to support an armed struggle. It is to their great credit that they have stood up to the massive aggression by the South African regime. Angola is still the target of South Africa's murderous campaign of terror and destruction.

The ANC has proceeded on the recognition that the states bordering on South Africa are relatively weak in material terms although strong in their support of our liberation struggle politically, and in terms of their opposition to the system of White minority domination. They will therefore act largely as dutiful members of the OAU and within their limitations.

The issues, however, should be seen not so much in terms of what happens to the neighboring states of southern Africa but what happens to the independent states of Africa. The attacks on Mozambique, Swaziland or Angola are attacks on independent Africa. They should provoke a response in

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Nelson Mandela Commemorates Soweto Uprising

A worldwide campaign has recently been launched demanding the release of Nelson Mandela, a leading member of the outlawed African National Congress (ANC) of South Africa, who has been incarcerated since 1963 at Robben Island, the notorious prison for political prisoners. The following statement, written two years ago by the ANC leader to commemorate the June 16, 1976, Soweto uprising, was recently smuggled out of Robben Island.

The gun has played an important part in our history. The resistance of the Black man to White colonial intrusion was crushed by the gun. Our struggle to liberate ourselves from White domination is held in check by force of arms.

From conquest to the present, the story is the same. Successive White regimes have repeatedly massacred unarmed defenseless Blacks. And wherever and whenever they have pulled out their guns, the ferocity of their fire has been trained on the African people.

Apartheid is the embodiment of the racialism, repression and inhumanity of all previous White supremacist regimes. To see the real face of apartheid, we must look beneath the veil of constitutional formulas, deceptive phrases and playing with words.

The rattle of gunfire and the rumbling of Hippo armored vehicles since June, 1976, have once again torn aside the veil. Spread across the face of our country, in Black townships, the racist army and police have been pouring a hail of bullets, killing and maiming hundreds of Black men, women and children.



NELSON MANDELA

The toll of the dead and injured already surpasses that of all past massacres carried out by this regime. Apartheid is the rule of the gun and the hangman. The Hippo, the rifle and the gallows are its true symbols. These remain the easiest resort, the ever ready solution of the race-mad rulers of South Africa.

In the midst of the present crisis, while our people count the dead and nurse the injured, they ask themselves: What lies ahead? From our rulers, we can expect nothing. They are the ones who give orders to the soldier crouching over his rifle, theirs is the spirit that moves the finger that caresses the trigger.

Vague promises, tinkerings with the machinery of apartheid, constitution juggling, massive arrests and detentions—side by side with renewed overtures aimes at weakening and forestalling the unity of us Blacks and dividing the forces of change—these are the fixed paths along which they will move. For they are neither capable nor willing to heed the verdict of the masses of our people.

The verdict of June 16 is loud and clear: Apartheid has failed. Our people remain unequivocal in its rejection. The young and the old, parent and child, all reject it.

At the forefront of the 1976-1977 wave of unrest were our students and youth. They come from the universities, high schools and even primary schools. They are a generation whose whole education has been under the diabolical design of the racists to poison the minds and brainwash our children into docile subjects of apartheid rule.

But after more than 20 years of bantu (separatist) education, the circle is closed and nothing demonstrates more the utter bankruptcy of apartheid as the revolt of our youth.

The evils, the cruelty and the inhumanity of apartheid have been there from its inception. Blacks, Africans, Colored and Indians have opposed it all along the line. What is now unmistakable, what the current wave of unrest has sharply highlighted is this: That despite all the window dressing and smooth talk, apartheid has become intolerable.

This awareness reaches over and beyond the particulars of our enslavement, the measure of this truth is the recognition by our people that under apartheid, our lives, individually and collectively, count for nothing.

We face an enemy that is deep-rooted, an enemy entrenched and determined not to yield. Our march to freedom is long and difficult. But both within and beyond our borders the prospects of victory grow bright.

The first condition for victory is Black unity. Every effort to divide the Blacks, to woo and pit one Black group against another, must be vigorously repulsed. Our people—Africa, Indian, Colored and democratic Whites—must be united unto a single massive and solid wall of resistance, of united mass action. Our struggle is growing sharper. This is not the time for the luxury of division and disunity. At all levels and in every walk of life, we must close ranks. Within the ranks of the people, differences must be submerged to the achievement of a single goal—the complete overthrow of apartheid and race domination.

The revulsion of the world against apartheid is growing and the frontiers of White supremacy are shrinking. Mozambique and Angola are free and the war of liberation gathers force in Namibia and Zimbabwe.

The soil of our country is destined to be the scene of the fiercest fight and the sharpest battles to rid our continent of the last vestiges of White minority rule.

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AFRICA IN FOCUS

1,200 Striking S. African Blacks Deported

(Johannesburg, South Africa) - Armed police deported 1,200 striking Black municipal workers to their tribal homelands in August while another 9,000 strikers were forced to return to their jobs, ending a week of labor turmoil in this capital.

Joseph Mavi, leader of the Black Municipal Workers Union, was arrested and held for questioning about "actions that violate the Sabotage and Riotous Assemblies Act," a police spokesman said.

The strike disintegrated after the city council said strikers refusing to go back to work would be fired. The 1,200 who refused were loaded on buses by police carrying shotguns and automatic rifles and taken home to such places as Transkei and Venda and the Black "township" of Soweto.

The strike, which had the support of nearly all of Johannesburg's Black city work force at its height, paralyzed municipal services. The workers were demanding the right to union representation as well as an increase in average pay to $75 weekly. The current average is $43 a week.



Black women in South Africa sitting on the ground, while White child is free to perch on park bench.

S. Africa Threatens to Ban Blacks from Parks

(Pretoria, South Africa) - The Pretoria city council threatened recently to ban Blacks from municipal parks and recreation spots, which it said were so "stuffed full of Blacks at weekends" that Whites did not want to use them.

The city council complained that the "problem" of Blacks using city parks on the weekends had reached crisis proportions.

Council sources said that banning Blacks from using the parks would probably be their solution.

"It is ridiculous. The parks are stuffed full of Blacks at weekends," said councillor Andries Denyschen, leader of the drive to ban Blacks from the parks.

"They come from miles around in their cars to spend the afternoon. On one afternoon I counted 91 Blacks in the park in my ward," Denyschen told a city council meeting.

"It has reached the stage that residents in the area cannot allow their children to use public parks," Denyschen said, as the other councillors nodded their heads in agreement.

"I have the support of at least 13 councillors (for the ban) and I expect to be flooded with support from the residents of Pretoria," he said.

Most of the Blacks of Pretoria live in two massive townships, Atteridgeville and Mamelodi.

Big Corporations Exploit Namibia

(New York, N.Y.)—Witnesses gathered from many countries in July to provide stark new evidence on the illegal and often secret exploitation of uranium resources in Namibia.

The accused are multinational corporations, some operating outside the country, some inside under the protection of the occupying power, South Africa.

For five days, the United Nations Council for Namibia took evidence on the exploration, purchase, transportation and processing of the country's uranium and on the exploitation of Namibians in the industry.

The focal point was the Rossing mine. Located near the Atlantic coast about halfway between the borders of Angola and South Africa, Rossing is the largest uranium mine in the world and the biggest industrial enterprise in Namibia. It is operated and partly owned in defiance of the council by London-based Rio Tinto Zinc (RTZ), one of the world's giant mining companies.

In the 1960's the U.N. took away South Africa's right under a League of Nations mandate to run Namibia and gave the legal and administrative responsibility for the country to the newly created Council for Namibia.

RTZ's "authorization" to mine Namibian uranium came originally from South Africa, three months before that country lost its mandate. RTZ's operating subsidiary, Rossing Uranium Ltd., was not organized until 1970 and is completely unauthorized.

In 1974, the council issued Decree No. 1, stating that no one may "search for," let alone "extract" or "export," as RTZ does, any natural resource of the country without the council's permission. RTZ has no permit.



The United Nations is investigating the illegal mining of uranium in Namibia by the U.S. and other Western countries. Namibia is still ruled by South Africa in violation of a U.N. mandate.

The council planned the July hearings at the U.N. in New York as the first step toward enforcing Decree No. 1. One of the main witnesses, Alan Roberts of the British Namibia Support Committee, urged the council also to begin to assess the damages that a future independent government of Namibia might seek, based on the value of the uranium removed.

Roberts also asked the council to implement the part of Decree No. 1 that allows for the seizure of Namibian resources in transit.

At the hearings, there was compelling testimony as to the widespread use of Namibian uranium by the utilities of the West.

Wolf Geisler of the West German Anti-Apartheid Bewegung said that the Rossing product was bought for nuclear power in West Germany, Britain, Japan, France, Austria, Iran, the U.S., Switzerland and the Netherlands.

Geisler explained that the unprocessed "yellow cake" from Rossing was converted to uranium hexafluoride in Britian, France and the U.S. (presumably by Kerr-McGee, which has a monopoly on the process here), before being enriched in the U.S. and the Soviet Union. (The USSR denied receiving uranium from Namibia.) Beginning this year, enrichment will also be done by URENCO, the joint British-Dutch-West German operation located in the Netherlands.

The political implications of British, French and West German contracts for Rossing uranium were stressed by Alun Roberts. "These three countries," he said, "are three of the Western five-member 'contact group' which has been negotiating with South Africa and the U.N." for the removal of South Africa's occupying forces, for U.N.-supervised elections and the establishment of an independnet Namibia. He suggested that the contracts "completely compromise the negotiating position of (these) governments in their dealings with the South African government over Namibia."

In the same vein, witnesses testified to the close ties between RTZ and the British government and crown. A letter from the secretary of the company written last March and presented at the U.N. hearings confirmed that Lord Carrington had been a director of the company until appointed as foreign secretary in the Thatcher cabinet. And Lord Chareris, another director, the letter said, "was formerly secretary to Her Majesty."

Speakers at the hearings noted that Labor and Conservative governments alike had refused to cancel the contracts for 7,500 tons of Rossing uranium. Those contracts had played an important role in the original financing of the project.

As one witness said, RTZ was taking advantage of cheap labor in Namibia and was benefiting financially from the apartheid system.

The company itself provided a table of payscales for its 2,382 employees at Rossing as of May 1977, which showed something of how apartheid works. There were two main divisions: "day rate workers," all of whom were Black or "Colored" (mixed race), and "salaried staff," none of whom were Black and only six "Colored." Some 92 per cent of the Blacks were in the four (out of 20) lowest pay ranges. They received $150-$235 a month, less $35 for food and housing.

"Working in an open air, under hot sun, in the uranium dust produced by grinding machines," one of the Black miners wrote late last year, "we are also exposed always to the ever present cyclonic wind which is blowing in this desert. Consequently our bodies are covered with dust and one can hardly recognize us. We are inhaling this uranium dust into our lungs...Our bodies are cracking and sore....There is no hospital, bathing, swimming...or privacy and we are not allowed to discuss matters of our mutual interest."

The company built a 600-house township, Arandis, close to the windswept piles of lethal tailings from the mines. Some 400 of the tiny houses are for married miners but some families live in relative safety and comfort 25 miles away.

The council is now writing a report based on the information gleaned from the hearing.

(The above article is reprinted from the Guardian.)□

WORLD SCOPE

Political Killings Mount in El Salvador

(San Salvador, El Salvador) — A leading clergyman has accused journalists of "covering up" political killings, and charged that military and right-wing death squads are responsible for most of the 3,827 deaths from political violence this year. The Rev. Jesus Delgado, a professor at the Jesuit-run Central American University here, said, "They kill indiscriminately because they (the people) could be subversives. They kill the people that can't defend themselves." He said 188 persons were killed in one week in late July.

Four headless corpses, identified as the remains of aides of Juan Chacon, the nation's most prominent leftist leader, who heads the Popular Revolutionary Bloc, were found in August on the main street of this capital city. The four were among 28 political slayings authorities reported overnight in the capital alone. All except one were presumed to be activists or civilians.

10,000 Students Protest Filipino Govt.

(Manila, Philippines) — Philippine students mounted the largest demonstration in nearly eight years of martial law in July to protest a government move to tighten control over colleges and universities. The protest began with a demonstration by 10,000 students at the University of the Philippines in Quezon City, a Manila suburb. The students objected to a bill to place colleges under a government agency which could prescribe courses and "reorient political thought."

South Korean Activist Indicted

(Seoul, South Korea) - Military prosecutors said in August they have indicted South Korea's leading dissident, Kim Dae Jung, on charges of violating national security laws and plotting insurrection.

At the same time, the military-backed civilian government announced the purge of 611 primary, middle-level and high school principals, teachers and school administrators in the so-called "social purification" drive instituted by the military strong man, Lt. Gen Chon Doo Hwan. The purges brought the total number of people fired from their jobs for political reasons in the past few weeks to nearly 9,000.

South Korea's martial law regime also has ordered a purge of journalists and broadcasters who resisted censorship or sought freedom of the press, and shut down 172 periodicals—12 per cent of those registered in the country—in its effort to curb the media.

Bolivian Miners Resist Military

(La Paz, Bolivia) — As one more military government tries to consolidate its hold on Bolivia, it has found that its principal opposition lies among the workers in the nation's principal industry, the tin mines.

Previous military regimes have been frustrated and even overthrown by the miners, and despite official reports from the government of Gen. Luis Garcia Meza that the miners are back at work, most of the country's tin, silver and lead mines are apparently still paralyzed and occupied by strikers armed with dynamite and rifles.

The July 17 coup that brought General Garcia Meza to power came less than three weeks before the provisional President, Lydia Gueiler Tejada, was due to hand over the presidency to an elected civilian. Gueiler's successor would almost certainly have been Hernan Siles Zuazo, a leftist who was the front-runner in the elections June 29. Miners report that assaults on the mining towns and camps have left more than 50 dead and nearly 300 captured by the soldiers. Roundups of political suspects go on, mostly carried out by right-wing squads armed with American-made submachine guns and M-1 carbines. They can be seen leaving army headquarters in the Miraflores district of LaPaz, packed into Social Security ambulances. The same vehicles were used at the start of the coup to hide soldiers arriving to attack the presidential palace and labor federation headquarters. Many of the prisoners taken at that time have not been seen since, and relatives form lines at the army high command and the football stadium every day hoping for news of them.

"We Will Sacrifice"

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Africa and internationally which recognizes not just Mozambique or Angola have been attacked but the whole continent, the whole of that part of humanity which regards the South African regime as criminal in terms of its politics and practices.

This has been missing and to that extent the frontline states have been isolated and treated as if the problem of South Africa is their peculiar responsibility. The question would not arise and there would be no aggression if South Africans can be made to feel that the world will react to their aggression. It is the best way of protecting countries which find themselves the unwilling neighbors of a tyrannical regime.

With particular reference to Zimbabwe, therefore, our basic position is that we do not expect that country to take on more than it can carry. We think it has numerous internal problems whose successful solution will be of benefit to our own struggle.

We have no doubt in our own minds that the people of Zimbabwe are irrevocably committed to the cause of liberation not only in Zimbabwe but also in Namibia and South Africa as everywhere else. No one need doubt either that our struggle is developing and the confrontation is bound to escalate. The sacrifices that have to be made for the liberation of our country are being made and will be made by our own people.□

"The Higher-ups are Causing the Problems"

Continued from Page 4

ing firms, the banks, the law firms, they are also trading people. They are a great resource draw. These people are coming because there is profit and because the center is growing...

"What we are heading for is decision making in Miami. That is the day when you can structure a large loan to Brazil here, not there."

Richard Judy, aviation director of Dade County: "We are incredibly ripe for sophisticated manufacturing, but one major problem is we do not have adequate manpower....I am talking about vocational training....you can't have it two ways, you can't have a 'right to work states' and expect pockets of trained machinists...You have got to choose if you want a right to work state. Go up to Ohio, go up to Illinois, go up to some of those intense labor states but you know what goes with it...I tell them accept this reality, that they are going into a 'right to work state'....You have the Cubans, who are the most trainable. We know that and point that out...."

For a dozen years, Liberty City has been laying quietly at the heel of the "Global Gateway." Multinational and international banks and traders rushed into Miami to set up shop. They brought with them four billion dollars a year in import-export business with 20 Latin American countries. It didn't take long to see that manufacturers could be convinced to come to Miami before they went to Mexico or Taiwan. When it comes right down to it, all three places have the same thing to offer; cheap, non-union labor. By 1978, 60 per cent of the families in Liberty City lived on less than $10,000 a year.

Nate Jackson has been watching the Global Gateway from the heel as far back as he can remember. Jackson, a Black worker for the city, talked at length about survival in Miami.

"It's a thing of getting a job to survive. I've been here all my life. I hate to say it but there are people here who won't hire you if you don't speak Spanish. If you don't speak Spanish you won't make it here. A friend of mine works at a bank. She knows she's going to lose her job. You come to work one day and your new supervisor is Cuban. She's slowly getting squeezed out and there is nothing she can do about it. I've been here. The thing that hurts me is you go away, you fight for your country, and you've got nothing."

But the problem doesn't start or end with half a million "trainable" Cubans. Miami's decision to "contain and starve" the poor majority is carried through by each agency of the goverment, including the police. Jackson continued:

"You can only take so much. You can't get justice. I've been harassed by the police. I'm a mechanic. I work on cars. My car was jacked up on the street and I went away for a few minutes for parts. I usually ask my mother to watch the car. When I came back there are 10 or 15 cops in half a dozen squad cars. They want everybody around to pull out registrations and they lined everybody up. You have to live it to really understand it. Deep down inside, it really hurts me. But it's no different for the poor Whites. They're getting pushed out. I asked my foreman where he's going. He said poor Whites are moving to the central part of the state. I got nothing against Cubans, but this is what is happening to Black Americans and White Americans down here—they're getting pushed out."

Jackson's neighbors next door, the Thomases, have lived there for seven years. R.J. Thomas drives a tractor trailer. Mrs. Thomas stopped working in her yard for a few minutes to explain the problem. "Honey, believe me, it ain't over yet. I guarantee you the shit is going to hit the fan. Only it's going to be in the high rent districts this time, Miami Shore, Key Biscayne, Coral Gables. And it won't be the business districts that get burned out this time. It'll be the homes."□

Mandela

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The world is on our side. The Organization of African Unity, the U.N. and the antiapartheid movement continue to put pressure on the racist rulers of our country. Every effort to isolate South Africa adds strength to our struggle.

At all levels of our struggle, within and outside the country, much has been achieved and much remains to be done. But victory is certain!

We who are confined within the grey walls of the Pretoria regime's prisons reach out to our people. With you we count those who have perished by means of the gun and the hangman's rope. We salute all of you—the living, the injured and the dead, for you have dared to rise up against the tyrant's might. Even as we bow at their graves we remember this:

The dead live on as martyrs in our hearts and minds, a reproach to our disunity and the host of shortcomings that accompany the oppressed, a spur to our efforts to close ranks, and a reminder that the freedom of our people is yet to be won.

We face the future with confidence. For the guns that serve apartheid cannot render it unconquerable. Those who live by the gun shall perish by the gun.

Between the anvil of united action and the hammer of the armed struggle we shall crush apartheid and White minority racist rule.

(The above article was reprinted from the Guardian.*)*□

Youth Rebel Worldwide

(San Francisco, Calif.) - Perhaps the most revealing aspect of the rebellion in Miami—as in upheavals that have rocked Tehran, San Salvador, Managua, Capetown, and Kwangju, South Korea, recently—was that the first to kill and be killed were the young.

With huge populations of youth now confronting limited opportunities that are being even further reduced by worldwide recession, widespread discontent of youth in bulging cities of the Third World has become a conspicuous fact of international life, writes *Pacific News Service* editor Sandy Close.

In the U.S., however, the belief has taken hold that we will eventually eliminate the problem of our discontented youth through the aging of our population and the steady decline in the number of our own young.

Fred Crossland, who heads the Ford Foundation's division of education and public policy, cites Census Bureau data to predict that America's population of 18-year-olds, about two per cent of the overall population in July 1979, will shrink at least 25 per cent between now and 1994 to 1.3 per cent of the population—a trend that, most experts say, would mean fewer demands on scarce resources and less competition for jobs.

But a critical factor is missing in such projections: Throughout the 1980's, a recent *Wall Street Journal* news report estimated, nearly half of the expected population increase in this country will come from soaring immigration, mainly by young immigrants of child-bearing age.□



HUEY talked with University of California, Santa Cruz, faculty member Dr. NOEL KING following Huey's graduation.

Court Denies Huey's Appeal of False Gun Conviction

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sion by Judge Cook declaring his only prior felony conviction unconstitutional. This evidence was the essential starting point for any defense aimed at showing a lack of criminal intent. Defendant desired to show that starting from the 1971 decision he and everyone else who became aware of that decision believed that he was not a felon.

"Thus, appellant registered to vote, visited prisoners, carried a weapon with full knowledge of the district attorney and police and otherwise acted and was treated as a person who had never been convicted of a felony. That this belief was eminently reasonable is demonstrated by the fact that it is essentially still held today by one of the members of this panel (opinion, dissent of Justice White).

"If appellant's state of mind was as he attempted to prove it was, he clearly acted without any wrongful intent and cannot be said to be morally culpable to any extent whatsoever. Thus, the imposition of criminal responsibility in the case at bar amounts to a holding of strict liability on the facts presented.

"The Court's opinion characterizes appellant's state of mind as a 'mistake of law' and dismisses any defense relating to such a mental state. . . .

"In the instant case . . . appellant knew he'd been convicted and sentenced but at the time of the alleged gun possession he believed he was not 'a person who has been convicted of a felony' for any legal purpose. . . .

"The essential question in this case should be the presence of or absence of criminal intent and it is absolutely clear that had the facts been as appellant attempted to demonstrate, he would have lacked any wrongful intent. The *time* at which appellant's belief developed—whether simultaneous with sentencing or several years later—is completely irrelevant to the question of wrongful intent. Indeed, the only significant time is the time of the alleged possession of the firearm. Provided that the defendant came to believe that he was not a felon prior to the time of the alleged possession, it does not reflect at all on intent or culpability that this belief arises during or after sentencing. . . .

"Appellant is not charged here with violating the 1971 judicial decision. If he were, his misunderstanding of the effects of that situation would be the classic mistake of law situation and this Court's analysis would be correct. Appellant is charged, however, with a violation of §12021 and was mistaken as to the effects of a different law (i.e. the 1971 judicial decision declaring the prior unconstitutional). . . .

"It is no answer to this defense to say that since the mistaken belief derives from a judicial decision it is a mistake of law. Regardless of that characterization, it is the kind of mistake of law or fact which California courts recognize as defeating criminal intent and constituting a valid defense.

"Regardless of the characterization given the defense, the fundamental inquiry is into the existence or absence of wrongful intent. Where wrongful intent is lacking, California courts will not impose criminal responsibility."

If his Petition for Rehearing is denied, Huey will appeal to the California Supreme Court.□

Bail Ruling A "Small Reform"

(San Francisco, Calif.) - "A small reform" is how National Lawyers Guild President Paul Harris describes the recent decision by the California Supreme Court ordering major changes in the state's bail system.

The court ruling places on the prosecutor the burden of proving that a person charged with a crime should not be granted pretrial release without bail. The decision makes it much more likely that persons charged with crimes will be released on their own recognizance (O.R.) without bail, therefore making it easier for poor people to be freed pending court appearances.

Under the present system, the burden was on the defendants to ask for release, by posting bond or by O.R.

Harris told THE BLACK PANTHER that "bail is one way poor people are exploited by the criminal justice system. While the court's ruling is long overdue, it does not solve the entire problem." He said that defendants in some cases will probably still have to pay bail.

The ruling marked the end of seven years of litigation which began as a citizen's suit here challenging the constitutionality of the city's bail system and pretrial release program. A lower court ruled that Gerald Van Atta, Jr. was correct in charging that denials of pretrial release were illegal unless it was proved there was high risk a defendant would fail to appear in court to answer criminal charges.

The state supreme court upheld the lower court ruling, stating that the O.R. program was set up historically to allow people who couldn't afford to pay bail to get out of jail, if they could show community ties, family, employment and other factors that they would keep future court dates.

The court, voting 4-3, found that shifting the burden of proof to the prosecution would "preserve the respect for the individual's liberty and for the presumption of innocence that lies at the foundation of our judicial system."

The court set down the following guidelines for granting O.R.:

• The prosecution must produce evidence of any record of an arrested person's prior non-appearances, and the severity of the sentence he or she faces.

• The prosecution must carry the burden of proof of the likelihood of non-appearance.

• The arrested person must prove community ties.

In addition, the court said that "although not compulsory, an oral statement of reasons for denial of pretrial release would be beneficial."

The director of a local O.R. group said the decision means up to one-third more people will be released than the estimated 400-500 a month who are now released in San Francisco on O.R.

THE BLACK PANTHER PARTY PROGRAM

MARCH 29, 1972 PLATFORM

WHAT WE WANT, WHAT WE BELIEVE

1. We want freedom. We want power to determine the destiny of our Black and oppressed communities.

We believe that Black and oppressed people will not be free until we are able to determine our destinies in our own communities ourselves, by fully controlling all the institutions which exist in our communities.

2. We want full employment for our people.

We believe that the federal government is responsible and obligated to give every person employment or a guaranteed income. We believe that if the American businessmen will not give full employment, then the technology and means of production should be taken from the businessmen and placed in the community so that the people of the community can organize and employ all of its people and give a high standard of living.

3. We want an end to the robbery by the capitalist of our Black and oppressed communities.

We believe that this racist government has robbed us and now we are demanding the overdue debt of forty acres and two mules. Forty acres and two mules were promised 100 years ago as restitution for slave labor and mass murder of Black people. We will accept the payment in currency which will be distributed to our many communities. The American racist has taken part in the slaughter of over fifty million Black people. Therefore, we feel this is a modest demand that we make.

4. We want decent housing, fit for the shelter of human beings.

We believe that if the landlords will not give decent housing to our Black and oppressed communities, then housing and the land should be made into cooperatives so that the people in our communities, with government aid, can build and make decent housing for the people.

5. We want education for our people that exposes the true nature of this decadent American society. We want education that teaches us our true history and our role in the present-day society.

We believe in an educational system that will give to our people a knowledge of self. If you do not have knowledge of yourself and your position in the society and the world, then you will have little chance to know anything else.

6. We want completely free health care for all Black and oppressed people.

We believe that the government must provide, free of charge, for the people, health facilities which will not only treat our illnesses, most of which have come about as a result of our oppression, but which will also develop preventative medical programs to guarantee our future survival. We believe that mass health education and research programs must be developed to give all Black and oppressed people access to advanced scientific and medical information, so we may provide ourselves with proper medical attention and care.

7. We want an immediate end to police brutality and murder of Black people, other people of color, all oppressed people inside the United States.

We believe that the racist and fascist government of the United States uses its domestic enforcement agencies to carry out its program of oppression against Black people, other people of color and poor people inside the United States. We believe it is our right, therefore, to defend ourselves against such armed forces and that all Black and oppressed people should be armed for self-defense of our homes and communities against these fascist police forces.

8. We want an immediate end to all wars of aggression.

We believe that the various conflicts which exist around the world stem directly from the aggressive desires of the U.S. ruling circle and government to force its domination upon the oppressed people of the world. We believe that if the U.S. government or its lackeys do not cease these aggressive wars that it is the right of the people to defend themselves by any means necessary against their aggressors.

9. We want freedom for all Black and oppressed people now held in U.S. federal, state, county, city and military prisons and jails. We want trials by a jury of peers for all persons charged with so-called crimes under the laws of this country.

We believe that the many Black and poor oppressed people now held in U.S. prisons and jails have not received fair and impartial trials under a racist and fascist judicial system and should be free from incarceration. We believe in the ultimate elimination of all wretched, inhuman penal institutions, because the masses of men and women imprisoned inside the United States or by the U.S. military are the victims of oppressive conditions which are the real cause of their imprisonment. We believe that when persons are brought to trial that they must be guaranteed, by the United States, juries of their peers, attorneys of their choice and freedom from imprisonment while awaiting trials.

10. We want land, bread, housing, education, clothing, justice, peace and people's community control of modern technology.

When, in the course of human events, it becomes necessary for one people to dissolve the political bonds which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and, accordingly, all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But, when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security.

National Black United Front Formed

(Brooklyn, N.Y.) - The failure of the two-party system to enact meaningful programs to deal with the problems of Black Americans has led to efforts to rebuild a strong nationwide grassroots Black movement.

"Our people are searching for new leaders and new vehicles," says Rev. Herbert Daughtry, national chairperson of the newly created National Black United Front (NBUF). Over 1,000 people from 39 states attended the NBUF founding conference held here in late June.

The theme of the conference was "Organizing for Victory in the '80's." "The NBUF represents a vehicle for struggling against oppression in the 1980's without a doubt," says Phil Gardiner of the National Antiracist Organizing Committee. "But the organization must also struggle against narrowing its base by breaking eventually with the nationalism that characterizes some aspects of the group."

Oba T'Shaka, chairperson of the San Francisco Bay Area BUF, emphasizes that cooperation among the diverse political beliefs in the Black community is critical because no single Black organization exists today that can meet all the needs of Black people.

"Since the middle '60's, the FBI and CIA, through their COINTELPRO program, has reaped heavy division on the Black liberation movement," T'Shaka says. "Groups have been divided against each other, leaders and organizations have faced dirty tricks designed to discredit them, and the Black liberation movement has lost much of its dynamism. Very often, the intelligence agencies' dirty tricks worked because they exploited the weaknesses of the Black liberation movement.

"The founding convention for a National Black United Front gained a great victory against the movement's weaknesses. Many had predicted that a meeting composed of so many diverse forces, would break down in confusion and ideological conflict. Instead, the great majority of participants displayed a great deal of maturity by downplaying ideological and religious differences."

"The focus of this convention was on work, work to develop strategies, plans, structure, program and leadership for a National Black United Front," the Bay Area BUF leader explains.

"The convention adopted a draft constitution, which will be open to modifications by local BUF's within the next year. The constitution is clear in specifying that there must be 'mutual respect for all participating organizations and persons, including genuine respect for difference, and yet principled struggle to promote maximum unity and cooperation within diversity.' The constitution commits the Front 'to struggle to eliminate racism (including Zionism and apartheid), monopoly capitalism, colonialism, imperialism, and the oppression, exploitation and inequality of women.

"To prevent financial cooptation of the Front by the White power structure, the constitution provides for



"We are still in 1980 a controlled people."

'strict political and financial independence of the National Black United Front.' Groups that make up the BUF locally and nationally must be all Black, and have a history of work in 'actively solving [some of] the day to day problems of the Black community,'" T'Shaka says.

In the upcoming months, NBUF leaders and members will concentrate on building local BUF chapters and expanding existing ones. "The backbone of our forces will be in our local bases when we mobilize in the future," Daughtry says.

An NBUF program developed in the health workshop held at the convention has already been organized. The organization's health committee "is working to identify the health problems in each community and to develop some kind of preventive health program to combat these problems," explains Dr. Bobbie Wright, director of Chicago's Garfield Park Comprehensive Community Mental Health Center.

Wright says that the NBUF Health Committee will also be "organizing on a grassroots level against the racist and political decisions which adversely affect Blacks, like hospital closings."

"Developing A Progressive Black Agenda for the 1980's from the Grassroots" will be the theme of the fourth convention of the National Black Political Assembly (NBPA), which will be held in New Orleans on August 21-24.

The NBPA was formed at the historic National Black Political Convention held in Gary, Indiana in 1972. Delegates at the Gary meeting, in which the Black Panther Party participated, adopted a National Black Political Agenda—a detailed statement of Black concerns, goals and policy preferences.

Since 1976, the NBPA has focused its attention on developing strong chapters in various states. The organization has also encouraged its state chapters to actively participate in matters and issues of concern to Black people at the state and local levels. Presently, 18 states have NBPA chapters and affiliates.

The call to the 1980 NBPA convention states, in part:

"In the historic past, in times of trouble, the forward progress of the race has always depended upon the willingness of men and women of principle and conscience to pose very sharply for themselves, our people and the nation the essential questions of Black survival with irrefutable and profound acts in words and deed. . . . The present age is no exception for it manifests the reality of our continuing lack of power within the American political economy. . . .

"The contradiction is great. On the one hand, Black gains have been made for the total group in such areas as education and life-expectancy where Blacks are approaching parity with Whites. Smaller gains have been made (which touch a relative elite) in higher education, income, professional occupations and housing residence.

"But we reject the notion that the status of our whole people may be determined by the status of its few privileged, especially when, on the other hand, fully one-third of Blacks are officially classified as poor. The relative income gap between most Blacks, and higher income Blacks and Whites, is increasing and the permanently higher levels of unemployment appear to be a fixture of our future.

"More important than such specific facts is the question of what is happening to the quality of life in the Black community, because here one confronts the arena of social struggle and the way in which it impacts upon Black institutions.

"Like the wrenching of a great ship being battered by the hurricane one feels the tearing of the Black cultural and social base in the disintegration of the Black family; in the weakening of Black institutions like the church and Black schools and a variety of supportive networks like the restaurants and theaters and business; in the acceptance of drugs; many forms of hip/nonserious life styles which strike at the integrity of the Black identity; in the rising young Black populations in jail or in the military for lack of viable alternatives; and in the powerlessness of our people to control institutions—even in the fact of the rise of thousands of Black elected and appointed officials.

"We are still in 1980 a controlled people. . . . Thus, we feel, in the backwaters of this social system, the reverberations which come from decisions of national consequences in vital areas of public and private policy.

"For example, the conditions we have described in the Black community are not created by Black people in the main, but by the nature of capitalism and the way it functions to allocate jobs and income and other economic opportunities and the influence which this has on other life chances.

"The persistence of 25 to 60 per cent levels of unemployment in some Black areas is a consequence of capitalism's concern with its own economic survival in the face of escalating inflation and the rapid decline of the dollar. Black people are merely the casualties of that consequence.

"Our mission, then, is set exactly within the historical call of our elders—to push unceasingly and uncompromisingly for change, not just symbolic changes as identified by the creation of more (first Negroes), but basic, fundamental change in the nation which affects the opportunity structure for every man, woman and child, whether Black or White, change which equalizes life chances for everyone in the richest nation in the world.

"We believe, in calling for such changes we must carefully evaluate our own history, especially the recent past, to seek the answer to the question whether or not the quality of our own national leadership is on course with the above objective.

"We, therefore, call to convention all who see that we do have an intensifying crisis, who are dissatisfied with the current pace and directions of change and the conditions of the lives of Black people, and who struggle to find the right solutions. . . ."□